



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

March 30, 2004

Mr. Dick Kruger
Kruger Construction, Inc.
743 Clough Mill Road
Pembroke, New Hampshire 03275

CERTIFIED MAIL (7099 3400 0003 0688 2508)
RETURN RECEIPT REQUESTED

NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning

Dear Mr. Kruger:

On February 21, 2004, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified by Doug Miner, a Forest Fire Ranger for the New Hampshire Department of Resources and Economic Development ("DRED"), that non-conforming materials had been burned off of Route 106 in Pembroke, New Hampshire (the "Property").

On February 23, 2004, DES personnel met with Chief Harold Paulson of the Pembroke Fire Department ("PFD"). Chief Paulson identified you as being responsible for the burning of non-conforming materials at the Property. DES personnel and Chief Paulson went to the Property to conduct an inspection in order to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. During the inspection, DES personnel observed and photographed non-conforming material including charred plywood, charred painted wood, charred wafer board, charred logs over 5 inches in diameter, insulation, wire, carpeting and assorted metals. Mr. Dave Bacon, one of your employees, told DES personnel that he had been burning for two days, and that approximately six box-truck bodies had been dismantled, and the metal frames with wooden flooring attached had been burned.

On February 23, 2004, DES personnel and Chief Paulson met with you at the Property and discussed the non-conforming material that had been burned. As a result of the inspection and information gathered, DES has determined that violations occurred.

The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

- Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning of brush by the landowner and allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.
- Env-A 1001.03(a) defines "brush" as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.
- Env-A 1001.03(k) defines "untreated wood" as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fines, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Mary Ruel at (603) 271-6795, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm>, or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enclosure: Env-A 1001, *Open Burning*

cc: M. Harbaugh, DES Legal Unit
R. Kurowski, EPA Region 1
D. Miner, DRED Forest Fire Ranger
Chief H. Paulson, Pembroke Fire Department
J. Goff, Chairman, Pembroke Board of Selectmen
R. Reed, NHDES-WMD
AFS # 330139777